

Statements by the United States at the Meeting of the WTO Dispute Settlement Body

Geneva,  
February 19, 2008

1. SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB

A. UNITED STATES – SECTION 211 OMNIBUS APPROPRIATIONS ACT OF 1998: STATUS REPORT BY THE UNITED STATES (WT/DS176/11/ADD.63)

- Mr. Chairman, the United States provided a status report in this dispute on February 7, 2008, in accordance with Article 21.6 of the DSU.
- As noted in that status report, a number of legislative proposals that would implement the DSB's recommendations and rulings in this dispute have been introduced in the current Congress, in both the U.S. Senate and the U.S. House of Representatives.
- The Administration continues to work with Congress to implement the DSB's recommendations and rulings.

[Second intervention:]

- In response to statements regarding concerns about non-compliance, the facts do not support that concern. The facts are that the U.S. compliance record is not poor.
- To the contrary, the record shows that the United States has fully complied in the vast majority of its disputes. As for the remaining few, we are actively working towards compliance.
- With respect to statements concerning an alleged undermining of the TRIPs Agreement, as we have said on previous occasions, we regret very much that some Members – including some whose record of protecting intellectual property rights appears less than robust – continue to criticize the U.S. commitment to intellectual property rights.
- These criticisms are completely unfounded. It is of course true that the United States remains a strong advocate of substantial protections for intellectual property internationally. However, the United States is also second to no one in providing strong intellectual property protection within its own territory.
- We therefore look forward to continuing to work with all Members – including all those Members speaking today – to secure the protection of intellectual property rights around the world.



1. SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB

B. UNITED STATES – ANTI-DUMPING MEASURES ON CERTAIN HOT-ROLLED STEEL PRODUCTS FROM JAPAN: STATUS REPORT BY THE UNITED STATES (WT/DS184/15/ADD.63)

- The United States provided a status report in this dispute on February 7, 2008, in accordance with Article 21.6 of the DSU.
- As of November 23, 2002, the U.S. authorities had addressed the DSB's recommendations and rulings with respect to the calculation of antidumping margins in the hot-rolled steel antidumping duty investigation at issue in this dispute. Details are provided in the document numbered WT/DS184/15/ADD.3.
- The U.S. Administration will work with Congress with respect to the recommendations and rulings of the DSB that were not already addressed by the U.S. authorities by November 23, 2002.

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C. UNITED STATES – SECTION 110(5) OF THE US COPYRIGHT ACT:  
STATUS REPORT BY THE UNITED STATES (WT/DS160/24/ADD.38)

- The United States provided a status report in this dispute on February 7, 2008, in accordance with Article 21.6 of the DSU.
- The U.S. Administration will work closely with the U.S. Congress and continue to confer with the European Communities, in order to reach a mutually satisfactory resolution of this matter.
- In this regard, we appreciate the EC's recent statements that it remains prepared to work with the U.S. to seek a resolution to this dispute. We share the EC's goal of discussing how such a mutually satisfactory solution could be achieved.

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D. EUROPEAN COMMUNITIES – MEASURES AFFECTING THE APPROVAL AND MARKETING OF BIOTECH PRODUCTS: STATUS REPORT BY THE EUROPEAN COMMUNITIES (WT/DS291/37/ADD.1 – WT/DS292/31/ADD.1 – WT/DS293/31/ADD.1)

- We thank the EC for its written status report and for its statement today.
- The reasonable period of time for EC compliance in this dispute expired on January 11, 2008. The issues covered in the dispute remain unresolved, even though more than four and one half years have passed since the United States filed its consultation request in May 2003.
- As the EC representative has noted, on January 14, the United States and the EC agreed to certain procedures under Articles 21 and 22 of the Dispute Settlement Understanding for the purposes of this dispute.<sup>1</sup> These agreed procedures are intended to allow continued discussions aimed at the goal of resolving this dispute and related issues.
- On January 17, the United States requested authorization under Article 22.2 of the DSU to suspend concessions and other obligations with respect to the EC under the covered agreements. Pursuant to the agreed procedures, the authorization request was referred to arbitration.
- On February 13, the Secretariat provided notice that the arbitrator had been constituted, and that the arbitration will be carried out by the three original panelists.<sup>2</sup> The United States thanks the panelists for their willingness to serve in this proceeding.
- Pursuant to the agreed procedures, on February 15, the EC and the United States jointly requested that the arbitrator suspend the arbitration. Yesterday, the arbitrator issued a decision suspending the arbitration proceedings. The arbitration will resume, at the request of the United States, if and when the DSB finds that a measure taken to comply with the recommendations and rulings of the DSB in this dispute does not exist or is inconsistent with a covered agreement.
- The EC today cited progress in making approvals, and indeed some approvals have occurred.
- We would note however, that the DSB found that the EC adopted a general moratorium

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<sup>1</sup> WT/DS291/38.

<sup>2</sup> WT/DS291/41.

starting in 1999 – nearly nine years ago – and lasting at least through mid-2003. A handful of approvals over a nine-year period is, unfortunately, of little commercial significance. Rather, the essential facts are that *over 40* biotech applications are currently pending in the EC approval system – including many applications currently approved and marketed in major world markets. At least one pending application was filed over ten years ago.

- The United States is likewise concerned that some of the EC member State product bans found by the DSB to be in breach of the EC's SPS obligations remain unchanged. Moreover, additional EC member States have adopted new bans on the very same biotech products covered by the member State measures found to be in breach of SPS obligations.
- Most recently, on February 7, 2008, the Government of France announced that it would be extending a ban on the only biotech variety currently grown commercially in the EC. Such actions are not conducive to a resolution of this dispute.
- The United States looks forward to continuing its dialog with the EC. We continue to hope that the EC will take the steps necessary to resolve this dispute so that there will be no need for the United States to resort to the withdrawal of concessions or other obligations.

2. UNITED STATES – CONTINUED DUMPING AND SUBSIDY OFFSET ACT OF 2000: IMPLEMENTATION OF THE RECOMMENDATIONS ADOPTED BY THE DSB

A. STATEMENTS BY THE EUROPEAN COMMUNITIES AND JAPAN

- As the United States has already explained at previous DSB meetings, the President signed the Deficit Reduction Act into law on February 8, 2006. That Act includes a provision repealing the Continued Dumping and Subsidy Offset Act of 2000. Thus, the United States has taken all actions necessary to implement the DSB's recommendations and rulings in these disputes.
- We welcome the EC and Japan's recognition that the 2006 Deficit Reduction Act does not permit the distribution of duties collected on goods entered after October 1, 2007.
- With respect to comments regarding further DSB surveillance in this matter, as we have already explained at previous DSB meetings, the United States has taken all steps necessary to implement the DSB's recommendations and rulings in these disputes.
- In this light, the United States fails to see what purpose would be served by further submission of status reports repeating the progress the United States made in the implementation of the DSB's recommendations and rulings.

3. UNITED STATES – MEASURES RELATING TO ZEROING AND SUNSET REVIEWS

A. STATEMENT BY JAPAN

- First, with respect to the EC's intervention, I will not comment on the substance of those comments as the United States has previously remarked on those issues on a number of occasions. The United States refers delegations to those U.S. comments.<sup>3</sup>
- Second, the United States would like to comment on two aspects of Japan's intervention today. With respect to Japan's comments that it would like to agree on a procedural arrangement regarding the sequencing of proceedings under DSU Articles 21.5 and 22.6, we appreciate Japan's engagement on this issue and look forward to continuing to work with Japan in this regard.
- With respect to the sunset reviews mentioned by Japan, the United States would offer the following observations. With respect to the sunset review regarding corrosion-resistant carbon steel flat products, the United States conducted a subsequent sunset review and, on February 14, 2007, published a determination revoking that antidumping duty order effective December 15, 2005. With respect to the sunset review regarding antifriction bearings, the United States conducted a subsequent sunset review and, on September 15, 2006, published a determination continuing the antidumping duty order.

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<sup>3</sup> See, e.g., WT/DS322/16 (26 February 2007); WT/DS294/18 (19 June 2006); WT/DS294/16 (17 May 2006).



4. ELECTION OF CHAIRPERSON

- Ambassador Gosper, the United States thanks you for your service to the DSB.
- You have been very patient, very inclusive, and have successfully worked toward consensus. This was especially so in your work on filling the vacancies on the Appellate Body.
- You have consistently provided a sense of direction – not imposing direction – but providing a sense of direction around which this Body could rally.
- We are looking forward to your upcoming chairmanship of the General Council. It gives us optimism for the current year, and we pledge our support to your chairmanship of the General Council.
- Regarding the incoming DSB Chair, I have known Ambassador Matus for over 15 years. He is a very thoughtful person, who looks to solve problems, rather than to explain how problems cannot be solved. He is a worthy successor to the outgoing Chair.